

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**MICHAEL SALLIE and MELINDA  
PERKINS,**

Plaintiffs,

vs.

**BRYAN LYNK**, individually and in his  
official capacity as a Police Officer of  
Midland Borough; **BRUCE TOOCH**,  
individually and in his official capacity as a  
Police Officer of Midland Borough;  
**RONALD LUTTON**, individually and in  
his official capacity as a Police Officer of  
Midland Borough; **GEORGE**  
**HRUBOVCAK**, individually and in his  
official capacity as a Police Officer of  
Midland Borough; and **MIDLAND**  
**BOROUGH,**

Defendants.

2:10cv456

**Electronic Filing**

**MEMORANDUM ORDER**

AND NOW, this 19<sup>th</sup> day of November, 2012, upon due consideration of defendants' motion in limine to exclude evidence of defendants' conduct being motivated by racial prejudice and the parties' submissions in conjunction therewith, IT IS ORDERED that [81] the motion be, and the same hereby is, granted in part and denied in part. The motion is granted to the extent it seeks to preclude plaintiffs' counsel from making arguments that defendants are liable because their conduct was motivated by racial prejudice toward plaintiffs. Such arguments are beyond the scope of the claims and bases for liability that remain for trial. The motion is likewise granted to the extent it seeks to preclude the use of evidence seeking to show defendants' adverse

treatment of others based on race. The motion is denied to the extent it seeks to preclude the introduction of evidence of the actual underlying factual events - such as the racial composition of the neighborhood, the crowd, the actors involved and so forth. The jury is entitled to consider all such evidence of the historical events in question and draw such inferences that it determines to be reasonable from its common everyday experience and the facts as it finds them to be.

There is no justification for sanitizing from the evidence of historical facts the skin color or other evident demographic information of the individuals involved.

s/ David Stewart Cercone  
David Stewart Cercone  
United States District Judge

cc: Patrick Sorek, Esquire  
Douglas C. Hart, Esquire  
Charles H. Saul, Esquire  
Kyle T. McGee, Esquire

*(Via CM/ECF Electronic Mail)*